

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
SPECIAL CIVIL APPLICATION No. 10505 of 1995

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed
to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy
of the judgment ?

4 Whether this case involves a substantial question
of law as to the interpretation of the
constitution of India, 1950 or any order made
thereunder ?

5 Whether it is to be circulated to the civil
judge ?

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SAURASHTRA TRADING CO. - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR DM THAKKAR for Petitioner(s) : 1,
MR LR PUJARI AGP for Respondent(s) : 1,
RULE SERVED for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 15/03/2007

ORAL JUDGMENT

1. Mr.D.M. Thakker, learned counsel for the petitioner,
Mr.L.R. Pujari, learned Assistant Government Pleader for
the respondent No.1 - State. None for the respondent

No.1 though served.

2. Mr.Thakker, learned counsel for the petitioner submits that he be allowed to challenge correctness, validity and propriety of the order to the extent of 75% seizure / confiscation of the stock which was being transported from Jamnagar to Junagadh. His submission is that in the matter of Patel Ambaram Kuberbhai Vs. State of Gujarat and others, reported in 1998 (2) GLH 533, a Division Bench of this Court has held that if allegations of black-marketing, hoarding, profiteering and/or illegal transportation, are not made and are not found proved, then confiscation to the extent of 75% would be bad.
3. Mr.L.R. Pujari, learned Assistant Government Pleader for the State submits that from the findings recorded by the District Civil Supply Officer, Junagadh, it is clear that the goods were being transported without gate-pass and there is a finding that the goods were transported without any entry in the records and as such, the present is a case where full stock ought to have been confiscated.
4. In the matter of Patel Ambaram Kuberbhai (supra), the Court has observed that if there are no findings or allegations of black-marketing or hoarding, then, confiscation of full stock would not be legal. In the said

case, the Court reduced the confiscation from 50% to 25%. In the present case, the defence of the petitioner was that after making entries in the records, the goods were purchased by the petitioner as a Commission Agent of M/s.Krushna Tradding Co. from M/s.Amrutlal Gokaldas Co. and the goods though were transported bonafide, but due to some mistake gate-pass could not be handed over by one driver to another driver. He submits that if present is a case of bonafide mistake, then, the confiscation should be reduced to 25%.

5. After going through the said judgment, learned Assistant Government Pleader for the State submits that present is not a case where any leniency should be shown in favour of the petitioner.
6. After hearing the parties and on going through the orders passed by the learned District Supply Officer and the State Government, I am of the opinion that for technical mistake committed by the petitioner, stock to the extent of 75% need not be confiscated. If 50% of the stock is ordered to be confiscated, the same would meet the ends of justice.
7. The petition is partly allowed with a direction that the stock would be confiscated to the extent of 50% only and

the balance stock or its value on the date of seizure shall be refunded to the petitioner. Rule is made absolute to the extent indicated above. No costs.

(R.S. GARG, J.)

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